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[Mr. B. S. Mallayya]

want to do real scientific work you must go in for preventives when there is no rinderpest and inoculate them by the serum simultaneous method. Only one inoculation is necessary and the immunity conferred by it is five or six years. It is a simple operation and the animal need not be on the sick list for a long time. I think they have succeeded with the serum simultaneous method in South Africa. But in Madras, the inoculation method by serum or serum simultaneous method is not regular and is not carried on in such a way as to create confidence in the minds of the cattle-owners. Several accidents have happened in Madras and so the whole system is run down, particularly, by the ignorant people who own these cattle, and so when there are cases of rinderpest they are not reported. So I would request the hon. the Minister to devise ways and means to make the method popular and also to adopt the most up-to-date method instead of going in for the old, costly and wasteful method."

The motion for reduction was put and negatived.

The demand was then put and carried and the grant was made.

The House adjourned for lunch at 1-35 p.m.

After Lunch (2-30 p.m.).

IX

RESOLUTION REGARDING APPROPRIATION FOR MAJOR WORKS.

* The hon. Mr. T. E. MOIR :—" Mr. President, I beg to move the following resolution :—

'That in the case of any major work under the heads 15. Irrigation, 55. Irrigation, 41. Civil Works and 60. Civil Works, which is incomplete on the 1st April and for which there is no provision in the ensuing year's budget, this Council authorizes the continuation of the work up to the limit of the previous year's sanctioned appropriation, on condition that the previous year's total grant for the head concerned has not been exceeded by the expenditure on the work up to that limit and that a supplementary demand for the amount to be expended in the current year is placed before the Council at its first meeting after the 1st of April.'

"I may say, Sir, that the object of this resolution is twofold. In the first place, during every financial year provision is made for a certain number of major works which it is expected will be completed within the financial year. Any small accidents towards the close of the financial year may prevent such anticipation from being realized under conditions which may make it too late to ask for provision in the following year. For example, sudden rains or the non-delivery of necessary material may cause unexpected delay and even where the work itself is actually completed, contractors may fail to draw bills which have been passed before the financial year has actually expired. The completion of the work or the payment for such bills has therefore either to be held up—in the latter case this is not permissible—until necessary funds have been provided by the Legislative Council or else payment has to be made in the absence of such provision. In the second place, there is a natural tendency on the part of disbursing officers to hasten payment in order to prevent financial provision from lapsing. This is part of what is generally known as the rush of expenditure in March, and leads to irregularities which have been animadverted upon by the Audit Department and not

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infrequently have to be brought to the notice of the Public Accounts Committee. Now, the Public Accounts Committee which reviewed the Audit Report for 1923-1924 in its report dealt with this very difficulty and recommended that the practice adopted in two other provinces to which our attention had been drawn by the Auditor-General, should be examined with a view to seeing whether either of these practices or any other should be adopted in order to meet our difficulty here. In one province, the lapses reported at the time of the revised estimate are made good in the next year's budget provided there is no excess over the Major head and that their accounts bear out the estimates. This of course ensures that if lapses are reported in time they will be restored to be spent at leisure in the course of the following year. That, however, does not meet the case of unanticipated delays or payments such as that I have referred to. And after full consideration it was decided that we should bring before the Legislative Council the motion which I now desire to move. It will, in the opinion of the Government, fully meet the necessities of the case and all that is asked for is that the Legislative Council should assent in this way to our procedure by which works in such cases will be carried on continuously up to the limit of the grant which the Council has already fixed. It does not permit of expenditure beyond the previous year's sanctioned appropriation nor does it permit the total grant under each head concerned of the previous year being exceeded. And it ensures that the expenditure actually incurred in the following year shall be regularized at the first possible opportunity by a supplementary demand being placed before the Council at its first meeting after the conclusion of the budget session. With this brief explanation I beg to move the resolution which stands in my name."

* The hon. Khan Bahadur MUHAMMAD USMAN SAHIB Bahadur :—" I second it."

Mr. SAMI VENKATACHALAM CHETTI :—" Sir, it seems to me a very important constitutional point involving a change in the financial arrangements of the province of a radical nature. The hon. the Finance Member has explained the reason why this change was considered necessary, viz., that it is usual that during the months of February and March there used to be a rush of bills for payments lest the amounts sanctioned should lapse and that the department is not in a position to know how much of the sanctioned amount was spent during the year and how much would be required for the next year. There is, however, no resolution so bad as not to contain some element of good. In that way perhaps this small convenience may be cited as an argument. But when we consider the risks involved in accepting this change it seems to me that the balance of advantages is on the side of refusing sanction for a motion of this sort.

" Sir, in the first place, I do not think it is allowed under the rules provided for under the Government of India Act. Supplementary demands can be made only when the amounts budgeted for are found to be insufficient or when a new item of service is intended to be taken up. Here it is not a case where the amount provided for was found to be insufficient; because, no provision will be made in the budget. Nor is it a case of a new item. Therefore, supplementary demands contemplated to be moved by the hon. the Finance Member at the first meeting in April cannot be in the sense in which the term supplementary demand is understood. Therefore in reality it is not a supplementary demand. Neither can it be an excess grant. Therefore, to legalise an apparently illegal motion for a supplementary demand

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after 1st April this resolution is placed before the Legislative Council asking the Council to give *carte blanche* to the Finance Member for spending amounts on all works which are found to be incomplete in the previous year. It seems to me that two or three causes must have weighed with the hon. the Finance Member when he pressed the passing of this resolution, viz., that when the budget is prepared for a particular year and presented to the Legislative Council, the surplus over the obligatory expenditure or the expenditure which is required for carrying on the administration on account of previous commitments will be larger than necessary if the provision for incomplete works also were to be included in that year's budget. To cover up that surplus new schemes will, either at the instance of the Ministers or of his own Colleagues in the Executive Council, necessarily be included in the budget. The Legislative Council will be under the impression that these new schemes for which provision has been made will be taken up during the year for which the provision has been budgeted. But between these two dates—the sanctioning of the budget by the Legislative Council and the taking up of the new schemes and, expenditure upon incomplete works for which sanction will be asked for after 1st April—supplementary demands will have to be made. They can only be appropriated either from unforeseen revenues, or from savings in departments or from keeping in abeyance new schemes for which provision has been made. It will not be known to the Legislative Council whether the Finance Member will appropriate moneys intended for new schemes or will find savings from other departments for which there has been over-budgeting having in view the remission of provincial contributions.

“If I understood him correctly it does not appear that this provision would apply to the allotment made in the immediately previous year only. It is just possible that a work might have been begun a few years ago and money may be allotted for that. The work might not have been completed in a particular year and might not be resumed in the next. Now he says, ‘since you gave the sanction for the whole amount, in whatever year we may be spending the amount we need not ask you for the sanction’. Between the date of the original sanction of a particular project and its completion, some years might elapse without any provision being made and without any money being spent upon it.

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“Supplemental demands are occasions for the Legislative Council to express its opinion upon the various projects coming before it. This resolution will cut away that right of financial control which this House possesses over the administrative departments. It is not therefore possible for the Council to accept this resolution. If however it is considered necessary in the interests of the local bodies—I do not know whether it is intended to cover the cases of grants to local bodies”

* The hon. Mr. T. E. MOIR :—“It refers to expenditure on Government works.”

MR. SAMI VENKATACHALAM CHETTI :—“My position is all the stronger then. I thought that this resolution would help the local bodies that are unable to spend the allotment within the year.

“I do not think that this resolution should be accepted because it will deprive the Legislative Council of the power of control it possesses over the spending departments. The hon. the Finance Member cited two instances of other provinces which have effected this change. I am not aware under what

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circumstances they did so. If the hon. the Finance Member had given notice of this a few days ago, we would have examined under what circumstances the change was effected in those Provinces. I therefore oppose the motion."

* Diwan Bahadur M. KRISHNAN NAYAR :—" Sir, I wish to associate myself with the main arguments of the hon. Member for the city of Madras and oppose the motion. If this resolution is carried, there will be a tendency on the part of the Department of Public Works for over-estimating the expenditure. If a particular project is estimated now to cost a lakh, naturally the department will not exceed that amount knowing full well that the department will not be able to spend the whole amount before the end of the financial year. If this resolution is carried, there will be a tendency to overestimate, because the officers of the department know very well that even if they are not able to spend the amount within the year they will be able to carry over the amount to the next year and spend it leisurely. This would give an impetus for over-estimating.

"I foresee also another evil. At present, if the officers of the department are slack in their work in the beginning of the year, they are becoming active as the year draws to a close, because they think that otherwise they would not be able to spend the allotment before the year runs out. But this resolution will make them slack in their work all through the year, because they know they would be able to spend the balance in the next year. For these two reasons I think that this motion of my hon. Friend should not be accepted by the House."

* Mr. S. MUTTAYYA MUDALIYAR :—" Sir, I feel constrained to oppose the motion. I agree that there may be some advantages if we accept this resolution. But as the financial rules at present stand, it is absolutely impossible for us to accept the resolution. I really do not know what the effect of accepting this resolution will be; in fact nobody knows it. Under the Devolution Rules and the Financial Rules of this Province, we are not in a position to accept this motion. It will be useful if I just refer to the English Practice on which these rules are framed by the Government of India. The Parliament meets in the month of March every year to discuss and vote on the budget. The financial obligations of the British Government are so large that they are not able to dispose of the financial business in a short time. Therefore one of the first Acts they pass in the March sittings is the Consolidated Funds Act providing for the deficits of the current year and a lump sum for meeting the expenditure of the first few days of the next year without showing any details of appropriation, before the Appropriation Act is passed by it in course of time. The Act of 1926 says that it votes for 260 million pounds. No details are given. The Act of 1927 votes for 179,704 thousand pounds for the next year. The British Parliament does not allow money to be spent without an authorization from it. The Devolution Rules also contemplate that no money should be spent by the Government without the sanction of the Legislative Council in matters for which the sanction of the Legislative Council is necessary. Of course, under section 72-D of the Government of India Act, the Governor can authorize expenditure in cases of emergency without the sanction of the Legislature. But Irrigation works and Civil works contemplated in grants 15, 55, 41 and 60 cannot come under this head. These are things contemplated in the previous year. They have been provided for and owing to some difficulty which the hon. the Finance Member explained, the department has not been

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able to spend the whole amount. Therefore the Governor cannot authorize expenditure under section 72-D of the Act. The Devolution Rules fix the limits within which we have to work. Under the rules, certain powers are given to the Finance Department and the Administrative Department to reappropriate sums voted within the grants themselves without the sanction of the Legislative Council. The Devolution Rules give greater liberty to this Government than the English Ministry has. But the British Parliament is very anxious that there should be no expenditure without an Act of Parliament authorising it. It makes an exception in the case of the Army and the Navy. The expenditure on those two items cannot wait for the Parliamentary procedure to be completed finally. A certain amount is therefore allotted to them for the whole year and it is open to the Army and Navy authorities to divert the amount from one head to another head in their own budget, provided the total expenditure does not exceed the amount allotted for the Army and Navy in that particular year. They may also spend the amount in the next year awaiting the sanction of the Parliament to be given in the Appropriation Act of the next year. I may usefully quote those provisions here which show that the exigencies of the Army and Navy have to wait for legislative sanction which is given in the Appropriation Act of the previous year itself. Section 4 of the Appropriation Act of 1925 says :

'4. (1) So long as the aggregate expenditure on naval and air services respectively is not made to exceed the aggregate sums appropriated by this Act for those services respectively, any surplus arising on any vote for those services, either by an excess of the sum realized on account of appropriations in aid of the vote over the sum which may be applied under this Act as appropriations in aid of that vote, or by saving of expenditure on that vote, may, with the sanction of the Treasury, be temporarily applied either in making up any deficiency in the sums realized on account of appropriations in aid of any other vote in the same department or in defraying expenditure in the same department which is not provided for in the sums appropriated to the service of the department by this Act, and which it may be detrimental to the public service to postpone until provision can be made for it by Parliament in the usual course.' Page 1367 of Public General Acts, 1924-25.

"Some latitude is allowed for the army and navy department to incur expenditure in the next year within the amount voted by Parliament in the previous year. But even this is regularized by the Appropriation Act of the subsequent year.

In this case the Appropriation Act of 1926 says : Whereas under the powers given for the purpose by the Appropriation Act of 1924, surpluses arising on certain votes for the navy and air services respectively have been applied as shown in the account set out in Schedule (C) to this Act ; it is enacted that the application of those surpluses as shown in the said account is hereby sanctioned."

"In this way the expenditure is legalized.

"So no money of the exchequer can be spent on any purpose, however ^{3 p.m.} urgent it may be, however necessary it may be, without the express sanction of the legislature. Following this fundamental principle, Devolution Rules have been framed. As I have already said, greater latitude is given to the Finance Department and the Government of Madras in administering their funds. Let us for a moment consider whether the Government want, by this resolution, to exceed the liberty given to them. Under Devolution Rule 38, expenditure can be diverted from one major head to another major head by the Finance Department and from one minor head to another minor head by a Minister. But it does not certainly provide for the transfer of any amount from one grant to another grant. That is exactly what the hon. the Finance Member wants by this resolution. For example, I take the Mettur project

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for which a sum of Rs. 130 lakhs has been sanctioned for expenditure during this year. Supposing that owing to some exigencies such as abnormal season of the year or the fact that the machinery does not arrive, the Government are not able to spend during the year more than Rs. 10 lakhs, what the hon. the Finance Member says by the resolution is that the sum of Rs. 120 lakhs should be spent during the next year without any sanction from the Legislative Council."

* The hon. Mr. T. E. MOIR :—"On a point of personal explanation, Sir. The hon. Member is entirely mistaken. No such case can possibly arise. A sum of Rs. 100 lakhs was provided this year for the Mettur project, and we shall have spent Rs. 54 lakhs. A sum of 44 lakhs of rupees has not been spent by the Public Works Department. There is provision for next year. Certainly we cannot proceed with any work for which there is no provision in the budget."

* Mr. S. MUTTAYYA MUDALIYAR :—"The hon. the Finance Member may be right in his intentions. But the effect of the resolution is quite different. What I said to the House is covered by the resolution. Suppose that in the present year an allotment of Rs. 130 lakhs is provided for the Mettur project and we spend Rs. 10 lakhs during the year. Suppose also that there is no provision for this project in the next year's budget, because the Government have to provide for more pressing schemes."

* The hon. Mr. T. E. MOIR :—"May I explain again? The provision under any head for the current year lapses at the end of the year. There must be further provision in the next year's budget to complete a scheme. We cannot possibly spend as the hon. Member suggests. Only the amount that is provided in the budget for the year can be spent. We cannot possibly spend without sanction under our procedure any sum beyond the definite provision in the budget."

* Mr. S. MUTTAYYA MUDALIYAR :—"I repeat what the hon. the Finance Member said. Whatever is voted in a year lapses at the end of the year, and any sum which is not spent in that year cannot be available for expenditure during the next year."

"What the hon. the Finance Member says by this resolution is this: Suppose a sum of Rs. 100 lakhs has been granted by the Legislative Council for a particular purpose, 80 lakhs are spent and 20 lakhs remain unspent. The hon. Member says that he would spend the sum of Rs. 20 lakhs in the next year and come forward after spending the amount for a supplementary grant for that amount. I thought the hon. the Finance Member lost sight of the provision regarding lapses, in the Civil Account Code in framing this resolution. Clause 206 of the Civil Account Code says:

'Deposits not exceeding one rupee unclaimed for one whole account year, balances not exceeding one rupee of deposits particularly repaid during the year then closing and all balances unclaimed for more than three account years will, at the close of March each year, be credited to Government by means of transfer entries in the Accountant-General's office.'

"Even though there is a provision to this effect, the hon. the Finance Member says by his resolution that he will go on spending the amount remaining unspent at the end of the year without the sanction of the Legislative Council and come forward with a supplementary demand later on."

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"It is a different matter whether the latter part of this resolution will come under the category of a supplementary demand or not. What the hon. the Finance Member says is this: 'though there is no sanction of the Legislative Council for spending the unspent sum of Rs. 20 lakhs during the current year on the particular item, I am entitled to spend it if this resolution is passed. I will spend it and come to you with a supplementary grant in August or September 1927 when we meet.' I shall refer to the difficulty which the hon. the Finance Member expressed later on.

"The money that is voted by a Council and is unspent lapses at the end of the financial year and on the 1st of April of the succeeding year there is nothing left. What the hon. Member attempts to do by this resolution is this: He says: 'I will go on spending up to a particular limit, i.e., what is left of the last year's provision, and come with a supplementary grant in September or October when the Legislative Council meeting is held.' I shall just put a case where difficulties may arise when a supplementary demand is moved. Take, for instance, a case in which a sum of Rs. 100 lakhs is provided for the current year, Rs. 10 lakhs are spent and the remaining 90 lakhs remain unspent. The hon. Member says that he would spend Rs. 90 lakhs next year and come up afterwards with a supplementary grant for this amount. Suppose the Council refuses to grant the amount. The money has been spent. Who is to pay it? Is it the situation which the hon. Member is anxious to place the House in? Certainly it should not be done. During the course of the year the money is spent, we may find that the scheme is useless or unprofitable. The House as a whole may decide to reject the scheme even after spending some money over it. We are liable to make mistakes and we may grow wiser later on; we may content ourselves, after wasting 10 lakhs of rupees, by not spending 90 lakhs more on it. It should not be open to the hon. Member to say that the Council should grant the sum of Rs. 90 lakhs, because it had been spent.

"What is the latter part of the resolution? It says that the Government would come forward with a supplementary grant for the money they have already spent. What is a supplementary grant? I shall refer to Rule 32 of the Legislative Council Rules which deals with supplementary grants. I do not know whether such an item of expenditure can be brought under the definition of a supplementary grant. Rule 32, page 204, Vol. I, of the Legislative Council Manual says:

'An estimate shall be presented to the Council for a supplementary or additional grant when—

(i) the amount voted in the Budget of a grant is found to be insufficient for the purposes of the current year, or

(ii) a need arises during the current year for expenditure for which the vote of the Council is necessary upon some new service not contemplated in the budget for that year.

(2) An estimate may be presented to the Council for an additional or supplementary grant in respect of any demand to which the Council has previously refused its assent or the amount of which the Council has reduced either by a reduction of the whole grant or by the omission or reduction of any of the items of expenditure of which the grant is composed.

(3) Supplementary or additional estimates shall be dealt with in the same way by the Council as if they were demands for grants.'

"These are the three classes of cases in which the vote of the Council can be asked. I do not know under what clause of this rule the hon. Member will bring forward a supplementary demand. This is not a service for which there would be provision in the budget. For instance, take a scheme for which provision is not made in the next year's budget. What he says is that he

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will spend the balance of the amount of money that is not spent during the current year and then come forward with a supplementary demand. Such a demand cannot come under any of the cases mentioned in Rule 32, because there is no provision in the budget for that scheme and because it is not a new service unless the hon. the Finance Member by some stretch of imagination says that this is a new service not thought of and not contemplated in the budget. Sir, if you will excuse me the analogy, it is just like saying that an 'old gentleman' means a 'young lady'. What is necessary under sub-clause (ii) is that at the time of the budget the Government had no idea of the work at all. What the hon. the Finance Member contemplates under the resolution is certainly not a grant of that sort. There is provision in the current year and the work cannot be completed within the year. He cannot bring a supplementary demand under sub-clause (ii). Certainly the work cannot be considered by any stretch of imagination as a new service. A supplementary demand cannot be moved under clause (2) of that rule, because there is no provision in the budget which has been refused or reduced. I have attempted to show that under the rules as they are, money cannot be spent on such a work without a vote of the legislature and that no supplementary demand can be moved. Now, the hon. Member wants to incur expenditure without a vote of the legislature and to spend money on a matter for which the vote of the legislature cannot be asked. He says 'I want this Council to give me power to spend the money that could not be spent at the end of the financial year.' What is the effect of the resolution if it is passed? It is only a recommendation to the Government. I need not repeat that the resolution is not in consonance with the regulations. Who is the officer who passes the accounts? Suppose the Accountant-General says that the Council passed a pious resolution. The Accountant-General and the Finance authorities have a right to say that the Legislative Council has no power to pass such a resolution. What are we to do then?

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"But we are bound by the regulations which have been laid down for the conduct of the Madras Government. We cannot draft money or appropriate money for any purpose which is not sanctioned either in the Rules or in the Act. If the hon. the Finance Member wants to say that this is sanctioned by the Rules, this procedure of appropriating money with the vote of the House, certainly this resolution, is superfluous. The hon. Member admittedly feels that he has not the power himself without the vote of this Council; and I am now asking whether the vote of this Council in favour of the resolution does give him that authority. I therefore submit, Sir, that we have no power to pass this resolution and admitting that we can discuss and pass it, I say it is absolutely useless.

"Sir, I have till now tried to show to this House that the resolution cannot be discussed by this House and that even if the vote is taken on it, it will be useless. I will now deal with certain practical questions which I shall put to the hon. the Finance Member, assuming that he has the power to bring forward this resolution. Not only will it not be valid but it is also dangerous to pass this resolution as I have shown. The budget of the Government is presented to us in the beginning of March and it is passed before the end of March and we adjourn. We may probably meet next in July, August or September. Certainly I do not see any difficulty, if the Government are really anxious to spend money on a certain work, in calling a meeting of the Council in April or May. But what does the hon. Member now say in this resolution?

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'At its first meeting after the 1st of April.' The next meeting after the 1st of April may be in October or in December. If the Government are really anxious to carry on any particular work for which there is some urgency, why not they convene a meeting of this Council on the 15th or 20th of April and have a supplementary demand passed? They can certainly do it. Now, the budget is presented on the 1st of March and the general discussion goes on for three days and the voting of demand begins on the 15th of March. Instead of that, I suggest that the budget may be presented on the 15th of March and the voting of demands finished by the 15th or 16th and that a supplementary demand be brought on the 16th or 17th April. The Government will then be in a position to know what amounts they want for other services and they can come with supplementary demands. Even supposing the Government are not able to arrive at the exact amounts in respect of the several services, what is there to prevent them from convening the meeting in May or June or as soon as the necessity to incur the expenditure is felt? Certainly the mere convenience or inconvenience of the Government in calling for the meeting of the Council on a particular day cannot afford any justification for the House voting in any way on the resolution before it. For, Sir, the ground seems to be simply this, that the Government find it inconvenient to call for a meeting of the Council in April or in May and that therefore they want the extraordinary sanction of the House to spend moneys which they could not spend otherwise. We are not made aware of the practical difficulties in the way of the Government calling for a meeting of the Council in April or in the beginning or even at the end of May. If that is done, this extraordinary course which the hon. the Finance Member now wants us to take need not be resorted to and it is perfectly possible without any inconvenience or stoppage of the work to have the necessary funds. On these grounds, I oppose this resolution."

* Rao Bahadur B. MUNISWAMI NAYUDU :—"Sir, I feel bound to oppose this motion for the reason that this Council would be deprived of the opportunity of discussing on the merits of any particular work for which the money is needed. Sir, the demand for grant for Public Works is allotted a certain time within which it is impossible for us to go through every item of it and take objection to it. We are not able to discuss in practice but a few items comprised in this demand and immediately the time limit is reached, the whole demand is put and the items are taken for as sanctioned. Supposing one of the works on which the Council has not expressed its opinion is found to be incomplete for want of funds and a motion like the one before us is brought in respect of it, the Council would be deprived of discussing it if the motion were accepted. If, on the other hand, a supplementary demand is brought in regard to that particular item, the Council will have the opportunity of expressing its opinion on it. I think that sanction of this procedure would mean that in respect of all items of work which were taken as sanctioned at the time of the voting of demands for want of time, the Council would be deprived of any opportunity on a later occasion of discussing as to the desirability or undesirability of sanctioning the expenditure on the particular work.

"My next point is this. It is not very clear as to what is exactly meant by this resolution. Sir, the hon. the Finance Member interrupted once or twice my hon. Friend, Mr. Muttayya Mudaliyar, and said that if a work estimated for Rs. 80 lakhs were sanctioned and if only Rs. 20 lakhs were spent out of the sanctioned amount, the remaining 60 lakhs could be spent in the

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next year, that there would be some objection to it. What exactly the objection was, I am not able to see. There is this thing to be noted. The resolution itself refers to a major work being a head of account. Supposing under Public Works as a head, there are a number of works sanctioned and after the whole allotment is spent in respect of one work it is found incomplete, will it be open to the Government to sanction expenditure on that work from out of the savings on other works under that head? It looks like this that the total amount that they would spend on an incomplete work should not exceed the total demand under that head. That means the Government may spend also in excess of the sanctioned allotment but only up to the savings that may be had under that head in respect of other works. That will be really dangerous because not only do they spend what is allotted, but also what is saved, in the next year.

"The third objection is this. When budgets are called and estimates are prepared by the departments, they are asked to give a forecast of the expenditure up to 31st March. If this resolution or the procedure involved in it is allowed, what will happen is this: the departments may as well give a forecast of the expenditure not up to the 31st of March but till the next meeting—it may be in June or July or August—and go on spending till His Excellency calls for the next meeting of the Council. I therefore think that we will be practically giving a sort of inducement to the departmental officers not to be overstrict in regard to the money they want for the financial year."

* Mr. S. SATYAMURTI :—"Mr. President, Sir, I am sure the hon. the Finance Member has listened to the speeches which have been made on this side of the House and if he has not made up his mind already not to be convinced, he would see the wisdom of withdrawing this resolution. Either the resolution means nothing or it means too much. Either it is a pious expression of the wish of this House or it means that certain spending departments may go and spend what they like, provided they come within the four corners of this resolution which is riding a coach and four through the Government of India Act, the Legislative Council Rules, the Devolution Rules and also the precedents of other Legislative Assemblies in India and England in which case it is too much, or it is merely our saying that you can do that which the Public Accounts Committee and the Accountant-General will merely treat as a scrap of paper. I am surprised, Mr. President, that the very first use which the new rule 24-A of the Government of India is made of by the Government, to bring forward motions which are not resolutions under our Rules and our Standing Orders, should be for this purpose. I am more surprised that the Finance Member, who ought to keep the financial conscience of this Council and of this Government, should have made himself responsible for a motion which might have been less unjustifiable, if it had come from any Member of the Treasury Bench in charge of the spending departments. I should have expected the hon. the Finance Member to say 'No' to a motion like this if any colleague of his wanted it. Evidently he feels that he must help them to circumvent some how or other the rules under which this Council is functioning and therefore he has made himself responsible for fathering this motion." He gave us instances of sudden rains, non-delivery of materials and contractors not drawing bills. It is a descent from the sublime to the ridiculous. For, when you read the resolution it says that in the case of any major work under the various heads mentioned in it, for which, Mr. President, roughly about three crores were sanctioned last year, if they are incomplete on

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the 1st of April even though there is no provision in the ensuing year, this Council should authorize the continuation of that work for theoretical purposes up to the limit of the previous year's sanctioned appropriation, i.e., on condition that the previous year's total grant for the head concerned has not been exceeded by the expenditure on the work up to that limit. I shall be obliged for some light upon the meaning of that phrase: 'up to that limit.' If it is not tautological, I should like to know what it means there, apart from the limit of the previous year's sanctioned appropriation. Thus in order to authorize him and his spending departments to spend up to the three crores of rupees theoretically, the resolution is put before us. I am sure every lawyer Member of this House will concede that a resolution of this kind has got to be tested by extreme tests. I say that the hon. Member wants power to spend up to three crores of rupees, on the flimsy explanation of contractors' non-delivery of materials, sudden rains and the contractors not drawing bills. It seems to me, Sir, that the hon. the Finance Member has not understood the full scope of his motion, because in the course of his interruptions of the speech of my hon. Friend on this side of the House, Mr. Muttayya Mudaliyar, he gave a totally different picture from what his words convey. And, after all, what we are asked to vote for to-day is not the hon. the Finance Member's speech, but the resolution as it stands. And the resolution is a dangerous inroad on the already restricted financial rights and privileges of this House.

"I will state my points very briefly, Mr. President. This resolution seeks to deprive the budget which comes before the House of one important feature of it, namely, that is a budget for the year, from the 1st April to the 31st of March next. Hereafter the budget we vote for is a budget not only from 1st April 1927 to 31st March 1928 but to the extent of the three crores which come under these heads, it is a budget without any limit of time whatever. They can go on spending on the ground, once a grant always a grant; once we have voted a grant on the ground that the work is incomplete, they can start the work in any current year. The hon. the Finance Member seems surprised, but if he will kindly look at the resolution he will see that it says: 'in the ensuing year's budget up to the limit of the previous year's sanctioned appropriation on condition that the previous year's total grant has not been exceeded, and that a supplementary grant is placed before the Council at its first meeting after the 1st of April.' There is no limit of time as to whether that particular grant should be made necessarily in the ensuing year. In any case even assuming that 'the previous year' there means that it confines it to the previous year according to the time limit, only to one year, even then I suggest that hereafter the budget we will be voting upon is an endless budget, not a budget we will be voting for the particular year. We may vote for so much amount but somehow or other, the Finance Member is going to utilize previous grants for expenditure on services which are not provided in the budget at all. Sir, we are complaining, on this side of the House at least, against the grave limitations under diarchy in the Government of India Act. And our greatest complaint is that with reference to financial powers our hands and feet are tied. If the Finance Member comes down to the House and assures us of sudden rains, contractors not supplying materials and not drawing bills, this House should not voluntarily deprive itself of even the modicum of financial control it has, and authorize the Treasury to go on spending as they please on services not included in the budget. Now, Sir, it may be contended that they have got the power, under the provisions as they stand relating to supplementary demands, for doing this.

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"If it is so, I suggest, Mr. President, that they have got such powers as they may require for all practical purposes. My hon. Friend from Tanjore has referred to those rules for a different purpose. I only want to put it to the hon. the Finance Member whether he considers, normally speaking, any contingencies are likely to arise which are not contemplated in the Legislative Council Rule 32. There you find the words 'if the amount is found insufficient or if a need arises for expenditure on some new service not contemplated in the budget for that year,' etc. Now, assuming, Mr. President, according to the illustrations suggested by my hon. Friend, the Finance Member, that by an omission on the part of the spending departments to inform the Finance Department in time, one lakh of rupees necessary for completing the Mettur project is not put in the budget I suggest that the Finance Department can reasonably argue that it is a new service not contemplated in the budget for that year. It is not within the budget. It is not provided for because the Finance Department thought on insufficient or inaccurate information given by the department concerned that they need not make any provision. But suddenly in the course of the year some, new facts are brought before it, that in order to complete the aforesaid Mettur project one lakh of rupees should be provided. Now, I should like to know why they cannot bring forward a supplementary demand saying that it is a new service which they did not contemplate in this year's budget, and bring it up in that form before the House. That seems to me, Sir, to be far more consonant with the spirit of our rules and the spirit of the Government of India Act, than to ask this House to give a *carte blanche* to the Executive, to the spending departments, to spend as much as they like and then come to us afterwards for a supplementary grant.

"Then, Sir, so far as practice in two other provinces is concerned the hon. the Finance Member referred in detail only to one province with regard to which he said—I took down his words—lapses are made good in the next year's budget. Very good. Make good the lapses in the next year's budget. That also you do not want to do. I am quite willing that where you are afraid that amounts may lapse in this year's budget and you want provision made in the next year's budget for these lapses, by all means include that in the Budget. Otherwise I suggest that these bulky volumes which are being thrown at our heads all these weeks are mere scraps of paper intended to mislead this House, if this resolution is going to be accepted. We think that so many crores are going to come as revenue and so many crores are going to be expended and we, like simple children, discuss each item and vote on each item, reduce a few rupees here and a few rupees there. But suddenly behind our back, the Finance Department may authorize the spending of any money on any service not contemplated in the budget at all, the only limit being that in a particular year the Council thinking of the then existing state of finances voted for that sum. Now, Sir, subject to necessary limitations Devolution Rule 38 does give the Finance Department all the power which any Government may require. It says :

"After grants have been voted by the Legislative Council—

(a) the Finance Department shall have power to sanction any reappropriation within a grant from one, major, minor or subordinate, head to another ;

(b) the Member or Minister in charge of a department shall have power to sanction any reappropriation within a grant between heads subordinate to a minor head which does not involve undertaking a recurring liability, provided that a copy of any order sanctioning such a reappropriation shall be communicated to the Finance Department as soon as it is passed.

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"Now, Sir, this rule confers on the Finance Department the power which they require. If, however, my hon. Friend contends that it does not confer on them that power, a resolution of this Council is the last way of getting it. It seems to me, Sir, that it is asking this House to amend the Government of India Act, to amend the rules made by the Government of India, both the Devolution Rules and the Legislative Council Rules, for which we have no power. Indeed I had intended to submit them as points of order to you, Sir, but I was so confident of appealing to the common-sense of this House that I did not want to raise them as points of order. Therefore I am placing them before the House as points of argument.

"One last submission, Sir, before I sit down. Every year Parliament passes an Appropriation Act whereby it regularises the expenditure of the kind contemplated here. But that is done for a particular year; and that is done at the end of the year, so that the appropriations made in that year may have legislative sanction. Therefore if my hon. Friend were to come here and say that for a particular project he wants so many rupees, annas and pies and he puts down a motion, this House has got the power to sanction. But to ask for a kind of *carte blanche* and get this House committed to incoate obligations of expenditure without any limit whatever, excepting the limit of the previous year's appropriation, is not sanctioned either by the Government of India Act, or the Devolution Rules, or by the practice of the Mother of Parliaments. Sir, in the Appropriation Act—I am reading from the Act of 1925—it is stated that

'4. (1) So long as the aggregate expenditure on naval and air services respectively is not made to exceed the aggregate sums appropriated by this Act for those services respectively, any surplus arising on any vote for those services, either by an excess of the sum realized on account of appropriations in aid of the vote over the sum which may be applied under this Act as appropriations in aid of that vote, or by saving of expenditure on that vote, may, with the sanction of the Treasury, be temporarily applied either in making up any deficiency in the sums realized on account of appropriations in aid of any other vote in the same department or in defraying expenditure in the same department which is not provided for in the sums appropriated to the service of the department by this Act.'

"That is the only analogy where there is no provision for the service, but then the Act says 'which may be detrimental to the public service to postpone until provision can be made for it by Parliament in the usual course.' Therefore, what is done by Parliament in regard to this matter is by legislation. I concede for one moment that the hon. the Finance Member may have an unanswerable case on the merits. It may be that fall of sudden rains and contractors' delaying bills, etc., may be such powerful causes that this House may agree to a change in the financial procedure. Assuming that, this is hardly the manner of getting this House committed to this principle. You must move the proper authorities, the Government of India or Parliament, to either amend the Government of India Act or the Devolution Rules or the Legislative Council Rules. You have no right to ask this House to commit itself like that, and I trust no section of this House will be a party to a voluntary deprivation by ourselves of the small financial powers and privileges of control which we exercise, on the doubtful hypothesis that cases may arise where owing to the operation of certain causes it may be necessary for us to authorize the Government to spend moneys without any reference to the actual voting on the budget. I do hope, Sir, that the Government will see the wisdom of withdrawing this resolution. But if they will persist in pressing it, I hope the House will teach them by its vote the unwisdom of their persistence in their error."

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* The hon. Mr. T. E. MOIR :—“ Sir, if I had been apprised beforehand that a very simple matter and a small issue of this kind was going to induce the hon. Member Mr. Muttayya Mudaliyar and the hon. Member for the University to tear a passion to tatters, I would have amplified the explanation which I have already made in placing this motion before the House. I purposely made my explanation as brief and concise as possible because it was concerned with one small point, and I am sorry that so much has been said which is, if I may say so, so entirely off the track that it is necessary for me to explain to the House again exactly what the motion is. The hon. Member for Tanjore gave us quite a lengthy disquisition on the practice of the British Parliament. I do not propose to follow him in his disquisition, but let me say that it is exactly because our procedure is not that of the British Parliament that this difficulty has arisen. He referred to the extreme strictness of the British Parliament in insisting on control over expenditure. Let me say that in this particular case the control of the British Parliament is far less strict than in our case. The reason why no motion of this kind would be necessary in the British Parliament is that they have got a practice under which the departments in each year find themselves in possession of particular sums at their disposal which they can appropriate in accordance with their requirements. Under our rules that is not the case. When a budget has been passed each department is placed with certain funds at its disposal—not at its general disposal—but each item is earmarked and if a particular item does not appear in the budget, that department has no right to use those moneys for that item until it has been properly sanctioned. Now, I might clear myself of one charge, or rather two charges which have been made by the hon. Member for the University. He expresses astonishment at the first use made of a new rule—24 (a) I think it is—in order to bring before the House this particular resolution. May I say that this resolution has nothing to do with that rule? It was discussed in one Public Accounts Committee at least before that rule came into existence, and it was under consideration and drafted in our own Secretariat before that rule was passed, and in the whole discussion about this matter no reference to that rule has ever been made”

* Mr. S. SATYAMURTI :—“ On a point of order, Sir. Then, under what rule has this motion been made? I was under the impression—I see now that I was under a mistaken impression—that this motion could have been made only under Rule 24 (a). In view of the hon. the Finance Member’s categorical statement that there has been no reference whatever to Rule 24 (a) in the course of the whole discussion in the Secretariat, I submit for your ruling, Sir, that this resolution is out of order. May I give my reasons for it, Sir?”

* The hon. the PRESIDENT :—“ I was made to understand by the hon. Member for the University that he has abandoned his intention of raising the point of order. Of course, it does not mean that he is prevented from doing so now. If he wants really to raise the point of order, he may give his arguments.”

* Mr. S. SATYAMURTI :—“ I did say so, because I was under the impression—mistaken as I now see—that this resolution was brought in under Rule 24 (a). If it was not, it is wholly out of order. I shall invite your attention very respectfully to this rule which says :

‘ Save in so far as is otherwise provided by these rules or in any case in which a communication is to be made to the Government under any provision of the Government of India Act or of these rules no discussion on a matter of general public interest shall take place otherwise than

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on a resolution moved in accordance with the rules governing the moving of motions except with the consent of the President and of the Member of the Government to whose department the motion relates.'

"And I ask you, Sir, to see whether as a matter of fact—I think I am entitled to the information I am asking only for the purpose of elucidating the matter—your consent was asked for, specifying your power under Rule 24 (a) and whether you exercised that power vested in you under Rule 24 (a) as President of this Council to consent to this resolution being moved; secondly whether the hon. the Finance Member himself as the Member of the Government to whose department the motion relates agreed to have this motion made and asked you for permission as the President; and thirdly, Sir—if you take the departments to which this motion relates, you will find that they are Irrigation and Civil Works which are not in the charge of the hon. the Finance Member as far as I know—whether the Members of the Government to whose departments this relates, the hon. the Second Minister and the hon. the Law Member wanted this motion to be made because these departments relate to them and whether they and you, Sir, between you have agreed to this motion being made.

"Unless it comes under this, I do not think I need argue the obvious, I submit there can be no motion whatever. On two previous occasions this matter came before the House and I do not think it is necessary to refer to them because you were here and took a keen part in them. Unless the Finance Member claims he is acting under Rule 24, he is estopped from claiming it now, for he says that it has no place in the whole of the correspondence in the Secretariat, he has given away his case and I do submit for your consideration whether it is open to him to say: I now ask your permission. That should have been done much earlier. The motion has been made admittedly without the formalities insisted upon. As the formalities of Rule 24 have not been observed, the motion should be ruled out of order."

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* The hon. the PRESIDENT :—"If any of the Members of Government have got anything to say with regard to the points of order raised by the hon. Member for the University, he may do so. Before that, I should say to the Member for the University that the operation of Rule 24 (a) was in my mind when the hon. the Law Member who is responsible for Irrigation moved the matter orally with me on the subject and I have given my permission which was expressly asked for when he made this resolution."

* Mr. S. SATYAMURTI :—"That is the hon. the Law Member."

* The hon. the PRESIDENT :—"Yes."

* Mr. S. SATYAMURTI :—"Therefore he should move the motion, Sir."

* The hon. the PRESIDENT :—"The matter is one concerning the Finance department as well as the hon. the Law Member and therefore one of the Members of the Cabinet has moved and I think it is perfectly in order."

* Mr. S. SATYAMURTI :—"May I ask your ruling with regard to the statement made by the hon. the Finance Member? If the Government were working in that harmony which one would expect, I should expect him to learn that he has taken the necessary permission and not make the irresponsible statement 'I have nothing to do with it'."

* The hon. the PRESIDENT :—"I may inform the hon. Member for the University that the hon. Member did mention that it is the wish of the hon. the Finance Member to move this resolution."

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* Mr. S. SATYAMURTI :—" Under 24-A ? "

* The hon. the PRESIDENT :—" The provisions of 24-A were in my mind. "

* Mr. S. SATYAMURTI :—" Both of your minds ? "

* The hon. the PRESIDENT :—" I can say, in my mind. "

The hon. Sir C. P. RAMASWAMI AYYAR :—" Sir, I am dealing according to your instructions solely with the question of the point of order. Certain defects were pointed out in the department of Irrigation and thereupon the question was raised as to whether this resolution should be framed. And as you have pointed out, Sir, all spending departments involve the co-operation of the Member in direct charge of the department as well as the Finance Member, and I submit that under 24-A the Finance Member is a Member to whose department the motion relates in so far as the expenditure in a certain manner is also comprised in that motion. "

* Mr. S. SATYAMURTI :—" In view of that statement—I accept his reading of the rule for the purpose of argument—may I ask whether the hon. the Law Member considers his having asked the consent of the President is the same as the Member in charge asking and he not being in charge complies with the requirements of the rule which requires the Member in charge of the department and the President should mutually and jointly consider the permission being given ? "

* The hon. the PRESIDENT :—" The Secretary has sent a note that this resolution is admissible under 24-A and the papers in the file do show that the papers have gone through all the departments concerned. Therefore it is not a very material point now, because the papers have gone through all the departments with which the motion is concerned. "

* Mr. S. SATYAMURTI :—" May I ask, including the Finance Department ? "

* The hon. the PRESIDENT :—" Yes. "

* Mr. S. SATYAMURTI :—" I see, my surprise becomes all the greater. "

* The hon. the PRESIDENT :—" I rule that the resolution is in order under Rule 24-A. "

* The hon. Mr. T. E. MOIR :—" Sir, one of the disadvantages of those interruptions which the hon. Member for the University deprecates in the case of himself and Members of his party is signally manifested by the discussion which has recently taken place. Does the hon. Member for the University believe that I am under the impression that I am moving this without sanction or under the cover of no rule or procedure ? What I was going to say when he interrupted me was to repudiate the insinuation which he made that we had taken advantage of this new rule in order to bring forward this resolution and to deal with a point which otherwise we should not have done. That insinuation I entirely repudiate and the existence or otherwise of this rule did not influence our discussion or decision on this subject. In the second place, he expressed surprise that I who am in charge of the financial conscience of the Government of Madras should bring this forward. Much, of course, as I regret falling under his censure I am fortified in the sense that I am with the Auditor-General who is the supreme authority in all such matters throughout India not only in the Central Government but also in so far as the Provincial Governments are concerned. And it was

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with reference to express correspondence with him and by his suggestion that this was one possible way out of the difficulty that this motion has been placed before the House. Therefore I may say, Sir, that my financial conscience is supported by so high an authority as the Auditor-General.

“ To return to the plain and simple matter now under issue. I admit that owing possibly to my fault, the hon. Member entirely previously misunderstood the scope of the resolution. The scope of the resolution is essentially restricted. In the course of any year you will find in our budget proposals a certain number either of civil works or of irrigation works which are not expected to be completed in that particular year and in such cases the invariable practice is to move for a further provision in the following year. In the case of other works the provision made in the current year is supposed to be ample to bring those works to completion. That is to say, every year there is a certain percentage of works for which final provision is made. In the actual working of the year these cases again fall into three classes. One is those which are actually completed in the year and in connexion with which all financial transactions are completed. Obviously works of that kind will disappear from our budget each year. In the second category come those works which owing to a variety of causes have been found definitely within the year that it will be impossible to complete. In such a case, the departmental officers report to that effect. They say, ‘ For various reasons, it may be due to the paucity of materials or any other cause we cannot make the progress that we anticipated and it will be impossible for us to complete the building within the year. In such and such a case, we can spend only two lakhs out of the five provided. Will you kindly allow us to relinquish three lakhs and make provision for the three lakhs in the following year?’ It is to a further small class of cases that this resolution is entirely confined in which it is discovered too late, perhaps in the last week of the year, that for some cause or other they will have to go on working say, for a fortnight before completing or that certain payments for which provision has been made have not actually been disbursed until April. Suppose as may happen in some cases that the contractors get their bills passed on the 29th March and the treasury is closed for the next two days. There are no arrangements by which the bill can be drawn before the treasury reopens. When it is presented in the treasury, the fact remains that there are no funds provided in the budget for the new year because it was anticipated that the work could be completed the previous year. This way our difficulty arises. Strictly speaking, expenditure of that kind is not regular. There is no provision made for that particular item in the next year’s budget. Then the hon. Member from Tanjore suggested that what we should do was to call for a special meeting of this Council. To do what? The business of the Council may be for half an hour to sanction an expenditure of a few thousand rupees. I have stated the practice, the work continues or payments are made, but that expenditure is not regular. The House fully intended that that expenditure should be met and that full provision should be made. But there is this technical difficulty that it was expected to be completed and there is a small balance to be met. Of course, the people who object are the Audit department. But the Audit department, I think, entirely realize that where they have to object it is purely a technical objection simply because, if I may say so, it is one of those matters for which our financial and business rules do not provide. Apparently in summing up all possible cases that could occur,

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* The hon. Mr. T. E. MOIR :—“ Sir, if I had been apprised beforehand that a very simple matter and a small issue of this kind was going to induce the hon. Member Mr. Muttayya Mudaliyar and the hon. Member for the University to tear a passion to tatters, I would have amplified the explanation which I have already made in placing this motion before the House. I purposely made my explanation as brief and concise as possible because it was concerned with one small point, and I am sorry that so much has been said which is, if I may say so, so entirely off the track that it is necessary for me to explain to the House again exactly what the motion is. The hon. Member for Tanjore gave us quite a lengthy disquisition on the practice of the British Parliament. I do not propose to follow him in his disquisition, but let me say that it is exactly because our procedure is not that of the British Parliament that this difficulty has arisen. He referred to the extreme strictness of the British Parliament in insisting on control over expenditure. Let me say that in this particular case the control of the British Parliament is far less strict than in our case. The reason why no motion of this kind would be necessary in the British Parliament is that they have got a practice under which the departments in each year find themselves in possession of particular sums at their disposal which they can appropriate in accordance with their requirements. Under our rules that is not the case. When a budget has been passed each department is placed with certain funds at its disposal—not at its general disposal—but each item is earmarked and if a particular item does not appear in the budget, that department has no right to use those moneys for that item until it has been properly sanctioned. Now, I might clear myself of one charge, or rather two charges which have been made by the hon. Member for the University. He expresses astonishment at the first use made of a new rule—24 (a) I think it is—in order to bring before the House this particular resolution. May I say that this resolution has nothing to do with that rule? It was discussed in one Public Accounts Committee at least before that rule came into existence, and it was under consideration and drafted in our own Secretariat before that rule was passed, and in the whole discussion about this matter no reference to that rule has ever been made . . . ”

* Mr. S. SATYAMURTI :—“ On a point of order, Sir. Then, under what rule has this motion been made? I was under the impression—I see now that I was under a mistaken impression—that this motion could have been made only under Rule 24 (a). In view of the hon. the Finance Member’s categorical statement that there has been no reference whatever to Rule 24 (a) in the course of the whole discussion in the Secretariat, I submit for your ruling, Sir, that this resolution is out of order. May I give my reasons for it, Sir? ”

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Under Civil Works, Provincial—Transferred ..	Rs. 24,193
Under „ „ Reserved ..	„ 344
Under 60. Civil Works	„ 2,601
Under 15. Irrigation	„ 6,000
Under 55. Irrigation	„ 11,920

The resolution was put and negatived.

X

The hon. Sir C. P. RAMASWAMI AYYAR :—“ Mr. President, Sir, this Bill is a formal one, but in its own way it has some importance. Hon. Members who are acquainted with the practice of the courts in Madras are aware of this, that under chapter VII of the Presidency Small Cause Courts Act there is a summary procedure for the recovery of possession of immovable property when any person has possession of that property of which the annual value does not exceed one thousand rupees. This gives certain summary powers for ejectment or ejection. It so happens that the Small Cause Courts Act was passed in 1882 and the City Civil Court Act in 1892. The result of this is that in cases appertaining to questions of title which under chapter VII of the Small Cause Courts Act are not precluded from being litigated upon in the ordinary courts, that is in the High Court, which was the ordinary court in 1882, the difficulty arises that all these suits must be filed in the High Court. Otherwise, if they are filed in the City Civil Court, according to existing law, the question of *res judicata* is raised, on the ground that the words ‘ City Civil Court ’ does not occur in the Act of 1882, thus precluding questions of title. For these reasons, I move that the Bill be read in Council.”

* The hon. Khan Bahadur MUHAMMAD USMAN SAHIB Bahadur :—
 “I second it.”